



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

Division of Drinking Water

June 9, 2015

Water System No. 3500810

Charles and Mae Park, CEO/Owners
4006 Ashford Circle
Hollister, CA 95023

Attention Mr. and Ms. Park:

CITATION NO. 02_05_15C_006

VIOLATION of TITLE 22, CALIFORNIA CODE OF REGULATIONS, SECTIONS 64431 AND 64432(i)

Enclosed is a Citation issued to the Whispering Pines Inn (System) public water system.

The System will be billed at the State Water Resources Control Board's (Water Board) hourly rate (currently estimated at \$128.00) for the time spent on issuing this Citation. California Health and Safety Code Section 116577 provides that a public water system must reimburse the Water Board for actual costs incurred by the Water Board for specified enforcement actions, including, but not limited to, preparing, issuing, and monitoring compliance with a citation. At this time, the Water Board has spent approximately three hours on enforcement activities associated with this violation.

The System will receive a bill sent from the Drinking Water Fee Branch in August of the next fiscal year. This bill will contain fees for any enforcement time spent on the System for the current fiscal year.

If you have any questions regarding this matter, please contact Shaminder Kler of my staff at (831) 655-6938 or me at (831) 655-6934.

Sincerely,

Jan R. Sweigert, P.E.
District Engineer, Monterey District Office
Northern California Field Operations Branch
Drinking Water Program

Enclosures

Certified Mail No. 7008 1830 0004 5435 0776

cc: San Benito County Environmental Health Department

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1
2 **STATE OF CALIFORNIA**
3 **STATE WATER RESOURCES CONTROL BOARD**
4 **DIVISION OF DRINKING WATER**

5
6 **TO:** Whispering Pines Inn Water System

7
8 **Attn:** Charles and Mae Park, CEO/Owners
9 4006 Ashford Circle
10 Hollister, CA 95023
11
12

13 **CITATION NO. 02_05_15C_006**
14 **VIOLATION OF TITLE 22, CALIFORNIA CODE OF REGULATIONS**
15 **SECTIONS 64431 AND 64432(i)**
16 **ARSENIC MAXIMUM CONTAMINANT LEVEL VIOLATION**
17 **FOR APRIL 2015**
18 **Issued on June 9, 2015**
19

20 Section 116650 of the California Health and Safety Code (hereinafter "CHSC")
21 authorizes the State Water Resources Control Board, Division of Drinking Water
22 (hereinafter "Division") to issue a citation to a public water system when the Division
23 determines that the public water system has violated or is violating the California Safe
24 Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4), or any regulation,
25 standard, permit, or order issued or adopted thereunder.

26
27 The Division hereby issues a citation to the Whispering Pines Inn (hereinafter
28 "System") for failure to comply with Title 22, California Code of Regulations (CCR),
29 Sections 64431 and 64432(i).
30

31 A copy of the applicable statutes and regulations is included in Appendix 1, which is

attached hereto and incorporated herein by this reference.

STATEMENT OF FACTS

The System is classified as a community public water system that serves domestic water to an assisted living retirement facility with 25 rooms that is licensed to hold up to thirty-six (36) residents. The System serves an approximate residential population of 28 individuals through 2 service connections. Well 01, the only groundwater source for the System, contains high levels of arsenic, which has a Maximum Contaminant Level (MCL) of 10 µg/L. The arsenic concentration in the raw well water has ranged from 97 µg/l to 204 µg/L in the monthly results reported since January 2010. The System provides arsenic removal through ion exchange treatment to the raw water from Well 01. The arsenic removal treatment plant was permitted by the Division on November 29, 2006. The System routinely provides bottled water to the residents for drinking and cooking.

Via electronic mail dated April 24, 2015, the Division received laboratory a result for the finished water effluent arsenic sample, collected on April 23, 2015. The sample result was reported at 130 µg/L, which is 13 times the MCL. A malfunction in the arsenic removal treatment process caused the arsenic level in the finished water effluent to exceed the MCL.

The System completed the Tier 1 arsenic MCL exceedance public notification by posting in public places and by hand delivery on April 24, 2015, as directed by the Division. The proof of public notification was submitted to the Division on April 27, 2015. Therefore, the System has complied with public notification requirements as specified in Title 22, CCR, Sections 64431 and 64432(i). The System continues to provide bottled water to the residents.

1
2 The System flushed the storage tank and distribution system and collected arsenic
3 samples on April 28, 2015. The results for the samples collected from treatment plant
4 effluent, storage tank, and kitchen entrance were reported 1 µg/L, 5 µg/L, and 11
5 µg/L, respectively. The results for the arsenic samples collected on May 1, 2015, from
6 the storage tank and kitchen entrance were reported 4.1 µg/L and 3.4 µg/L,
7 respectively. The arsenic results for the May 1, 2015 samples were significantly below
8 the MCL. As a result, the Division approved to cancel the public notification by
9 electronic mail dated May 6, 2015.

10 11 **DETERMINATION**

12
13 Title 22, CCR, Section 64431 requires that a public water systems shall comply with
14 the primary MCLs in table 64431-A, which includes the arsenic MCL of 10 µg/L

15
16 Title 22, CCR, Section 64432(i) states that the compliance with the MCLs shall be
17 determined by a running annual average; if any one sample would cause the annual
18 average to exceed the MCL, the System is immediately in violation.

19
20 The finished water effluent arsenic sample, collected on April 23, 2015, caused the
21 running annual average to exceed the MCL. Therefore, the Division has determined
22 that the System violated Title 22, CCR, Sections 64431 and 64432(i).

23 24 **DIRECTIVES**

25
26 System is hereby directed to take the following actions:

- 27
28 1. Comply with Title 22, Sections 64431 and 64432(i), in all future monitoring periods.
29

- 1 2. Conduct a thorough investigation of the arsenic treatment failure incident.
- 2
- 3 3. Submit to the Division the arsenic MCL exceedance incident investigation report
- 4 on or before **July 31, 2015**. The report must include the reason(s) of treatment
- 5 failure and corrective measures taken to avoid such incidents in the future.
- 6
- 7 4. Include the arsenic results that exceeded the MCL, in the 2015 Consumer
- 8 Confidence Report to be prepared in 2016.
- 9

10 All submittals required by this Citation shall be submitted to the Division at the
11 following address:

12
13 Jan Sweigert, P.E.
14 District Engineer, Monterey District Office
15 State Water Resources Control Board
16 Division of Drinking Water
17 1 Lower Ragsdale Drive, Building 1, Suite 120
18 Monterey, CA 93940
19

20 The Division reserves the right to make such modifications to this Citation as it may
21 deem necessary to protect public health and safety. Such modifications may be
22 issued as amendments to this Citation, and shall be effective upon issuance.

23
24 Nothing in this Citation relieves the System of its obligation to meet the requirements
25 of the California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4,
26 commencing with Section 116270), or of any regulation, standard, permit or order
27 issued or adopted thereunder.

28 29 **PARTIES BOUND**

30
31 This Citation shall apply to and be binding upon the System, its owners, shareholders,

officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The directives of this Citation are severable, and the System shall comply with each and every provision thereof notwithstanding the effectiveness of any provision.

FURTHER ENFORCEMENT ACTION

Division 104, Part 12, Chapter 4, (commencing with Section 116270) of the California Health and Safety Code authorizes the Water Board to: issue a citation with assessment of penalties if a public water system continues to fail to correct a violation identified in a citation; take action to suspend or revoke a permit that has been issued to a public water system if it has violated applicable law or regulations or has failed to comply with orders of the Water Board; and petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Water Board. The Water Board does not waive any further enforcement action by issuance of this citation.

Jan Sweigert

Jan Sweigert, P.E.
District Engineer, Monterey District Office
Northern California Field Operations Branch
Division of Drinking Water

June 9, 2015
Date



Appendix (1):

1. Applicable Statutes and Regulations

Certified Mail No. 7008 1830 0004 5435 0776

APPENDIX 1: APPLICABLE AUTHORITIES

Section 116650 of the CHSC states in relevant part:

- (a) If the Department determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the Department may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.
- (b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.
- (c) A citation may specify a date for elimination or correction of the condition constituting the violation.
- (d) A citation may include the assessment of a penalty as specified in subdivision (e).
- (e) The Department may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation.

California Code of Regulations, Section 64431 states in relevant part:

Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

Table 64431-A
Maximum Contaminant Levels
Inorganic Chemicals

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010
Mercury	0.002
Nickel	0.1
Nitrate (as NO ₃)	45.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 um in length.

California Code of Regulations, Section 64432 (i) states in relevant part:

- (i) Compliance with the MCLs shall be determined by a running annual average; if any one sample would cause the annual average to exceed the MCL, the system is immediately in violation. If a system takes more than one sample in a quarter, the average of all the results for that quarter shall be used when calculating the running annual average. If a system fails to complete four consecutive quarters of monitoring, the running annual average shall be based on an average of the available data.

California Code of Regulations, Section 64463.4 states in relevant part:

- (a) A water system shall give public notice pursuant to this section if any of the following occurs:
 - (1) Any violation of the MCL, MRDL, and treatment technique requirements, except:
 - (A) Where a Tier 1 public notice is required under section 64463.1; or

- (B) Where the Department determines that a Tier 1 public notice is required, based on potential health impacts and persistence of the violations;
 - (3) Other violations of the monitoring and testing procedure requirements in this chapter, and chapters 15.5, 17 and 17.5, for which the Department determines that a Tier 2 rather than a Tier 3 public notice is required, based on potential health impacts and persistence of the violations;
- (b) A water system shall give the notice as soon as possible, within 30 days after it learns of a violation or occurrence specified in subsection (a), except that the water system may request an extension of up to 60 days for providing the notice. This extension would be subject to the Department's written approval based on the violation or occurrence having been resolved and the Department's determination that public health and welfare would in no way be adversely affected. In addition, the water system shall:
- (1) Maintain posted notices in place for as long as the violation or occurrence continues, but in no case less than seven days;
 - (2) Repeat the notice every three months as long as the violation or occurrence continues. Subject to the Department's written approval based on its determination that public health would in no way be adversely affected, the water system may be allowed to notice less frequently but in no case less than once per year. No allowance for reduced frequency of notice shall be given in the case of a total coliform MCL violation or violation of a Chapter 17 treatment technique requirement; and
- (c) A water system shall deliver the notice, in a manner designed to reach persons served, within the required time period as follows:
- (2) Unless otherwise directed by the Department in writing based on its assessment of the violation or occurrence and the potential for adverse effects on public health and welfare, noncommunity water systems shall give the public notice by:
 - (A) Posting in conspicuous locations throughout the area served by the water system; and
 - (B) Using one or more of the following methods to reach persons not likely to be reached by a public posting:
 - 1. Publication in a local newspaper or newsletter distributed to customers;
 - 2. E-mail message to employees or students;
 - 3. Posting on the Internet or intranet; or
 - 4. Direct delivery to each customer